

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

STANLEY EDELSTEIN, IVAN GERARD, )  
PAT HOY, BARRY BLUE, ROBERT )  
CAMPNEY, GROVONDA COLEMAN, )  
WAYNE COREY, PETER DANIELSON, )  
WILLIAM GOLDMAN, DANA HAMIK, )  
MICHAEL HICKS, BILL KELLER, )  
RICHARD NEVINS, JOE SCHUETTE, )  
CHRISTL UPCHURCH, LORRAINE )  
VASHON, TIM WHITTINGHILL, )  
ROBERT SCHMIDT, and )  
PACESETTER CORPORATION AMENDED) )  
AND RESTATED KEY EXECUTIVE )  
RETIREMENT PLAN, )

Plaintiffs, )

vs. )

OPTIMUS CORPORATION, formerly known) )  
as THE PACESETTER CORPORATION, )

Defendant. )

Case No.8:10-cv-000061-JFB-FG3

**PLAINTIFFS' MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

COME NOW Plaintiffs and, pursuant to Fed. R. Civ. P. 56 and Local Civil Rule 56.1, move this Court for a partial summary judgment ruling that the Releases executed by the individual Plaintiffs are unenforceable and do not bar Plaintiffs' claims against Defendant. In support of this Motion, Plaintiff shows to the Court that there is no genuine issue of material fact and Plaintiffs are entitled to a judgment finding the Releases unenforceable as a matter of law, because the Releases are the product of duress, were executed in reliance on Defendant's fraudulent misrepresentations and/or the parties' mutual mistake, and were without consideration. In further support of this Motion, Plaintiff submits a brief and index of evidence contemporaneously herewith.

WHEREFORE, Plaintiffs pray for an order holding that the Releases are unenforceable as a matter of law.

DATED this 15th day of June, 2011.

STANLEY EDELSTEIN, IVAN GERARD, PAT  
HOY, BARRY BLUE, ROBERT CAMPNEY,  
GROVONDA COLEMAN, WAYNE COREY,  
PETER DANIELSON, WILLIAM GOLDMAN,  
DANA HAMIK, MICHAEL HICKS, BILL  
KELLER, RICHARD NEVINS, JOE  
SCHUETTE, CHRISTL UPCHURCH,  
LORRAINE VASHON, TIM WHITTINGHILL,  
ROBERT SCHMIDT, and PACESETTER  
CORPORATION AMENDED AND RESTATED  
KEY EXECUTIVE RETIREMENT PLAN,  
Plaintiffs

By /s/ Joseph E. Jones

Joseph E. Jones , #15970

Michael L. Schleich, #13690

Elizabeth A. Culhane, #23632

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ATTORNEYS FOR PLAINTIFFS

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was electronically filed with the Clerk of the Court for the United States District Court for the District Court of Nebraska using the CM/ECF system this 15th day of June, 2011, which system sent notification of such filing to counsel of record.

/s/ Joseph E. Jones

Joseph E. Jones